

REMARKS

The following remarks are in response to the Office Action mailed January 28, 2008. Additionally, a petition requesting a 3-month extension of time is respectfully submitted herewith to extend the time for response up to and including July 28, 2008.

Claims 16, 19-30 and 37 are currently pending in this application, of which claims 16, 19-30 and 37 were rejected in the Office Action. Claims 16, 27 and 37 are independent claims. Claims 38-40 have been added. No new matter has been introduced with these claims.

Claims 16, 27 and 37 are hereby amended to include the additional elements of the data being associated with the drug in a single source, for example, one embodiment may be a syringe being a single source, and the data is from the providing of the single source to the disposal of the single source; and the storing of the unique tracking code in a storage device in association with the identification of a patient to be administered the drug.

In the Office Action, claim 37 was rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,170,746 (Brook et al.). Brook et al. disclose a drug tracking system including a portable barcode reader and printer which is connected to a network. The system can track inventories of specific drugs, including tracking the subtraction and addition of various quantities of drugs within a nurses' station, for example. The printer is capable of printing barcodes which may be placed on a drug container to identify the type of drug in the container. Brook et al. disclose the barcode as containing a reference to the specific National Drug Code (NDC) information for the specific type of drug. The NDC information is pulled from a

processing unit 32 which is separate from the portable barcode reader.

It is respectfully asserted that Brook et al. do not disclose each and every element found in claim 37, as required under 35 U.S.C. §102. Specifically, Brook et al. lacks, for example, the ability to associate a unique tracking code with a single source. And further, Brook et al. cannot provide and store first, second and third data associated with that single source, as claimed, wherein the first data is data relating to the drug in the single source, the second data is the amount of drug administered to the patient from the single source, and third data is associated with the disposal of the single source.

Instead, Brook et al. disclose a barcode which contains generic information related to the drug within the container, an example of first data only, at best. Essentially, Brook et al. disclose a system which electronically inventories the drugs found within a safe or nurses' station. Col. 1, lines 8-14; col. 8, lines 30-47. The barcode contains the information on itself, which includes NDC information, type of drug and quantity in the container (or on the shelf). Id.

As to first data, Examiner asserts that Brook et al., at col. 5, lines 48-54, disclose a first data. This section of the specification discloses that the system of Brook et al. includes a barcode which contains, on the barcode, National Drug Code (NDC) information, which is generic information relating to the type of drug in the container. However, Brook et al. is not capable, based on their disclosure, of including specific information about the specific drug in a single container. Brook et al. is limited to only generic information about the general type of drug in a multitude of containers. Moreover, Brook et al. store the drug information on the barcode. The system of Brook et al. do not include a storage device on which

information is stored, as is found in the present invention, as claimed. The present invention does not store information on the unique tracking code itself, but rather stores the information related to the unique tracking code on the storage device.

As to second data, Examiner asserts that Brook et al., at col. 7, lines 32-50 and col. 8, lines 27-65, disclose a second data. These sections of the specification disclose a "pick list" in which various numbers of containers are "picked" for various stations. Brook et al. cannot track the amount of drug administered to a patient from a single source associated with a unique tracking code. Brook et al., at best, can create lists to illustrate the number of containers needed for a station ("pick list"). Additionally, as with the first data, Brook et al. cannot associate a unique tracking code with the second data, and store the second data in association with a unique tracking code on a storage device. Brook et al. is not capable of tracking the dispensing of the drug from a container, and particularly not as to a specific container. The extent of Brook et al.'s capability is limited to tracking the addition and subtraction of a particular drug in a nurses' station. However, once the drug leaves the nurses' station, the Brook et al. system cannot track the amount of drug dispensed from the container.

As to the third data, Examiner asserts that Brook et al., at col. 6, lines 36-55, col. 10, line 51 to col. 11, line 12, disclose a third data. These sections of the specification disclose an inventory feature of the system in which the system can keep track of the amount of containers entering and leaving the station. Brook et al. do not disclose a system which can track a single source to disposal of the source. At most, the system of Brook et al. disclose a system which can maintain an

inventory of the number of containers contained in a station. Brook et al. cannot provide third data associated to the disposing of a single source, as claimed in the present invention. Additionally, as with the first and second data, Brook et al. cannot associate a unique tracking code with the third data, and store the third data in association with a unique tracking code on a storage device.

Examiner also cited to col. 6, lines 2-19 of Brook et al. as disclosing storing first, second and third data associated with the unique tracking code on the storage device. While this section does disclose a storage device, it is not disclosed to be able to store first, second and third data (nevermind that Brook et al. do not include these data) that is associated with a tracking code. Instead, as Applicant reads the disclosure, Brook et al. is capable of gaining the generic information related to NDC and stations, which it can then assign to the containers to generically designate the type of drug therein. Brook et al. do not disclose a storage device which is associated with a unique tracking code and can store first, second and third data.

Moreover, Brook et al. do not disclose the present invention because the barcode of the present invention, as claimed, does not contain any information. Instead, the information, or data, is kept on a storage device, remote from the barcode. The barcodes in Brook et al. keep the information directly on the barcode. Brook et al. do not include a storage device for storing information regarding a barcode.

Also, the barcodes of the present invention, as claimed, are unique as to a single source. Thus, each barcode is unique, and designates a single container of a drug. Brook et al., on the other hand, has a single barcode for each drug. The barcodes of Brook et al. are merely for inventory purposes to

track the number of containers in a nurses' station moving in and out. Col. 10, lines 3-50. Brook et al. is not concerned with monitoring a specific container. Instead, Brook et al. intends to track generally the flow of a specific type of drug in and out of a nurses' station.

For these reasons it is respectfully submitted that this rejection be withdrawn. Brook et al. do not disclose each and every element of the claimed invention.

The Examiner also rejected claims 16 and 19-30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,651,775 (Walker et al.) in view of Brook et al. Walker et al. has been cited in previously office actions, and will not be discussed in depth here.

It is respectfully submitted that Walker et al. and Brook et al., either alone or in combination, do not disclose each and every element of the claimed invention, as required by 35 U.S.C. §103.

Walker et al. do not disclose, as stated by the Examiner, "associating a unique tracking code with said source, wherein said unique tracking code is unique as to said single source providing data associated with said drug in said single source." Office Action, Page 5.

Walker et al. employ a scanning module which uses bar code techniques to read a label affixed to a cradle. The label contains information including a code identifying the drug contained in the syringe, size of the syringe, syringe type, preparer of the drug, etc. See Walker et al., col. 2, ll. 7-19. In other words, in Walker et al., data related to the source is contained in the bar-coded label, whereas, in the claimed invention, any such data is associated with a unique tracking code, and is stored on a storage device and capable of being

retrieved using the tracking code affixed to the device.

However, as discussed above, this is also not found in Brook et al. Brook et al. do not disclose a "unique tracking code" that is unique as to a single source. Instead, Brook et al. disclose a generic barcode which is specific only as to a certain type of drug. Brook et al. do not disclose a barcode that is unique as to a single container of drug, and as such, the Brook et al. system cannot track a specific container of a drug.

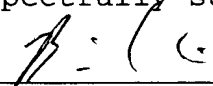
In view of the above, each of the presently pending claims in this application is believed to be in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 28, 2008

Respectfully submitted,

By  \_\_\_\_\_

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